

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK****STEVEN NACHSHEN,****Plaintiff,****-against-****STARBUCKS CORPORATION, ET AL.,****Defendants.****19-cv-10318 (ALC)****ORDER****ANDREW L. CARTER, JR., United States District Judge:**

On January 28, 2021, this action was discontinued without costs and without prejudice to restoring the action to this Court's calendar if the application to restore the action was made within thirty days. ECF No. 65. On March 2, 2021, Plaintiff's counsel filed a letter motion advising the Court that Plaintiff had passed away and requesting a stay of the deadline to restore the action as well as leave to file a status letter concerning the appointment of a representative of Plaintiff's estate by April 30, 2021. ECF No. 66.¹ Defendants opposed the motion that same day, asserting that Plaintiff's ADA claim was extinguished as a result of Plaintiff's death and should be dismissed as moot. ECF No. 67. Furthermore, Defendants noted that since the ADA claim was the only apparent basis for federal question jurisdiction, once that claim is dismissed, the Court will no longer have jurisdiction and thus, the entire action should be dismissed. *Id.*

Plaintiff's letter motion to stay the deadline to restore the action and for leave to file a status letter by April 30, 2021 is **DENIED**. In light of Defendants' assertion that the case must be dismissed as a result of Plaintiff's death, the action is hereby **RESTORED** to the Court's calendar.

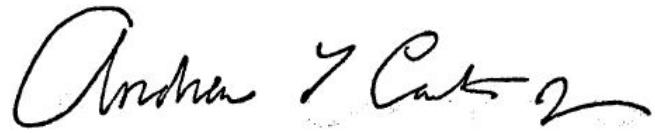
¹ Plaintiff filed the letter motion one day after the 30-day deadline expired. However, given that Plaintiff attempted to file the motion the day before but was unable to do so due to problems with ECF, the Court considers the motion timely.

Defendants are directed to file a suggestion of Plaintiff's death and proof of service by no later than March 12, 2021. In accordance with Fed. R. Civ. P. 25(a)(1), Plaintiff must file a motion for substitution no later than 90 days after being served with the suggestion of death. Failure to do so will result in dismissal of Plaintiff's claims.

The Clerk of Court is directed to terminate ECF No. 66.

SO ORDERED.

Dated: March 3, 2021
New York, New York



ANDREW L. CARTER, JR.
United States District Judge